

SPECIAL ADJUSTMENT BOARD NO. 947

Claimant - John Villalobos
Award No. 54
Case No. 54

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employees
and
Southern Pacific Transportation Company (Western
Lines)

STATEMENT
OF CLAIM

That the Carrier's decision to place a letter of reprimand on Claimant's personal record was excessive, unduly harsh and in abuse of discretion, and in violation of the terms and provisions of the current Collective Bargaining Agreement.

That because of the Carrier's failure to sustain and support the charges by introduction of substantial bona fide evidence, that the Carrier now be required to expunge letter of reprimand from Claimant's personal record, and that the charges be removed from his record.

FINDINGS

Upon reviewing the record, as submitted, I find that the Parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Special Board of Adjustment is duly constituted and has jurisdiction of the Parties and the subject matter; with this arbitrator being sole signatory.

The Claimant was first employed on April 1, 1986 and entered the service of the Western Seniority District of the

Sacramento Division, Southern Pacific Transportation Company in the Track Sub-department. At some point during the Spring of 1987, he bid and was awarded a position on the Crossing and Switch Gang 5 with normal working hours of 6:00 am. to 2:00 p.m.. He only worked for one day in that assignment before he was sent to help on the tie gang. The work day for the tie gang began at 5:00 a.m. and ended accordingly. On May 1, 1987, the Claimant was issued a Letter of Reprimand for arriving at his assignment late. The Organization filed an appeal on behalf of the Claimant contending the Letter of Reprimand was unjustifiable and arguing that the Claimant had reported to work before 6:00 a.m., which was his assigned starting time as a member of the Crossing and Switch Gang 5.

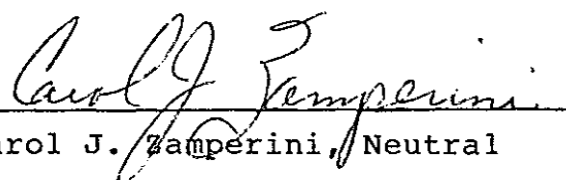
The Division Engineer, J. J. Deis, stated in his response to the appeal that the Claimant had been warned several times about arriving late (after 5:00 a.m.) at his assigned job with the tie gang. While the record of the Employee only indicates one such warning issued on April 29, 1987, the Division Engineer's claim of several warnings was undisputed. Anytime an employee is given a direct order or warning relative to his behavior, he is obligated to respond positively unless the direction would place him in danger. The failure of an employee to comply simply because he believes his actions are correct and management's are wrong, is unacceptable. Self-help remedies will not excuse an employee's failure to follow the directions of management. This case is no exception. The Claimant had access

to the Agreement and had access to the Organization. If he felt he was being asked to do something which was a violation of the Agreement, he should have obeyed the directive and filed a grievance. Because he did not do that the Letter of Reprimand is appropriate.

Besides, the Employee was working with the tie gang whose starting time was 5:00 a.m., he knew this, employees should expect to arrive at work whenever the shift for his/her particular job starts.

AWARD

The Claim is denied.


Carol J. Zamperini, Neutral

Submitted:

February 2, 1988
Denver, Colorado